

**To:** Lola Bird[lbird@blm.gov]; Sutherland, Ryan[rrsutherland@blm.gov]  
**Cc:** Ashcroft, Tyler[tashcrof@blm.gov]  
**From:** Ginn, Allison  
**Sent:** 2017-05-11T14:33:18-04:00  
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**Subject:** Speaking Notes for Women's Group  
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[BENM WomensGroupPresentationOutline.docx](#)

Hello!

I'm attaching a rough outline of the discussion for next week. I will not be reading the text verbatim- this is just an attempt to compile vetted information into one document.

I will work with Tyler and Nate to get a clear speaking point on the difference between protection under the Antiquities Act and ARPA/NAGPRA/etc. I'll run that by Public Affairs as well.

I have also italicized answers to anticipated questions- such information would only be given if asked.

Mrs. Zinik indicated that they do not want a formal presentation or the use of any electronic visual aids. I will bring copies of the new professionally printed maps and other public materials for distribution.

If Public Affairs would like a more formal presentation outline, please let me know. Thanks!

Regards,

Allison Ginn  
National Conservation Lands Program Lead  
BLM Utah State Office  
801-539-4053

## **BEARS EARS NATIONAL MONUMENT DISCUSSION**

TITLE: *Bears Ears Discussion with Women's Study Group*

DATE: *Thursday, May 18 12 pm*

DURATION: *1-2 Hours (arrive at 11:50 am; informal presentation will commence after meal)*

LOCATION: *The Town Club, 1081 E South Temple, Salt Lake City, UT 84102*

CONTACT: *Organizer: Dona Zinik, 801.487.4822; Ryan Sutherland, BLM-Utah External Affairs*

EXPECTED NUMBER OF PARTICIPANTS: *12*

### **Outline of Informal Discussion (Key Points)**

*Open with introductions of BLM staff. Gently remind participants that we can only disclose publicly available information and that BLM is part of the Executive Branch of the federal government we implement the laws and orders that are passed by Congress or the President. We cannot speculate on what Congress or the President may or may not do in the future.*

#### **A. Background Information**

Efforts to protect the area date back more than 80 years in 1936 there was a proposal to create the "Escalante National Monument" in a portion of the BENM. More recently, Representatives Bishop and Chaffetz proposed two National Conservation Areas (Indian Creek and Bears Ears) in the Utah Public Lands Initiative (H.R. 5780). The Bears Ears National Monument is similar in size to the proposed Bears Ears and Indian Creek National Conservation Areas and Mancos Mesa Wilderness in H.R. 5780.

The Antiquities Act of 1906 grants the President authority to designate national monuments to protect "objects of historic or scientific interest." Since 1906, Presidents and Congress have designated more than 125 national monuments, 27 of which are maintained by the BLM. On December 28, 2016, President Obama designated the Bears Ears National Monument by presidential proclamation (Proclamation 9558 of December 28, 2016).

The Bears Ears National Monument is located in southeast Utah's canyon country, in San Juan County. The boundaries of the monument encompass approximately 1.06 million acres managed by the Department of the Interior's BLM, and nearly 290,000 acres within the boundaries of the Manti La Sal National Forest managed by the USFS. The total acreage under federal management is approximately 1.35 million acres.

BLM's monuments are managed as part of the National Landscape Conservation System, whose mission is to conserve, protect, and restore nationally significant landscapes recognized by the president or congress for their outstanding ecological, cultural, or scientific resources and values.

The Antiquities Act makes multiple references to “objects”, which include “objects of antiquity” and “objects of historic or scientific interest”. Objects are listed in the proclamation or enabling legislation and may include cultural artifacts or features, historic structures, paleontological or geological features, specific plant or animal species or habitats, and other resources. The BLM is required to manage monuments for the proper care and management of the objects of historic and scientific interest for which they were designated. The objects of Bears Ears National Monument are described in detail in the first six pages of the Proclamation. A discrete list of resources, objects and values along with information about their geographic extent is usually released as part of a Monument Management Plan.

If Asked:

*Identifying the specific objects in a proclamation is critical in order to properly manage a national monument and to determine the management actions necessary to implement the law and manage monuments for the purposes for which they were designated. BLM must identify which objects the president intends for protection in order for the agency to properly undertake land use planning or other analysis to ensure proper management of a national monument. BLM has not established a process or policy on identification of monument objects. Courts have upheld that the BLM has discretion to determine, to a certain degree and within reason, which items listed in a proclamation are the actual objects to be protected.*

**Commented [GAL1]:** This information would only be covered in response to a specific question.

*In practice, interdisciplinary teams analyze the proclamation and determine the objects, usually as part of a land use planning process or in advance of an analysis under the National Environmental Policy Act.*

*According to BLM policy (Manual 6220) and federal court precedent, the FLPMA mandate requiring BLM to manage public lands for multiple use and sustained yield includes managing specially designated public lands for the purposes for which they were designated.*

*BLM's objective in managing a National Monument is to:*

- A. Comply with the presidential proclamations by conserving, protecting, and restoring the objects and values for which the Monument was designated for the benefit of present and future generations.*
- B. Effectively manage valid existing rights and compatible uses within a Monument.*
- C. Manage discretionary uses within a Monument to ensure the protection of the objects and values for which the Monument was designated.*
- D. Utilize science, local knowledge, partnerships, and volunteers to effectively manage a Monument.*
- E. Provide appropriate recreational opportunities, education, interpretation, and visitor services to enhance the public's understanding and enjoyment of a Monument.*

Publicly Available Sources

**Commented [GAL2]:** I will take copies of these with me and pass around the maps.

1. Presidential Proclamation (Proclamation 9558 of December 28, 2016).
2. DOI/USDA Joint Press Release on December 28, 2016

3. Fast Facts and Q&A (Accompanied DOI Press Release)
4. 1936 Proposed Escalante National Monument Map
5. Bears Ears National Monument Boundary Comparison Map
6. BLM/USFS Joint Press Release: Next Steps for Bears Ears National Monument (January 18, 2017)
7. USFS Bears Ears National Monument Questions and Answers

#### **B. Cultural and Paleontological Resources**

Archeological resources within Bears Ears encompass both prehistoric and historic sites, and include abundant rock art, ancient cliff dwellings, ceremonial sites, and countless other sites and artifacts. Archaeological objects are usually defined as resources determined to be historic properties, or archaeological resources either listed on or eligible for listing on the National Register of Historic Places (also defined at 36CFR800.16(l)).

Archeological sites within Bears Ears National Monument include:

- Paleoindian sites, including the Lime Ridge Clovis site.
- Archaic Period sites, which reveal the lives of hunters and gatherers who lived in the region for thousands of years, beginning as far back as 8,500 years ago.
- Basketmaker II and III and Pueblo I, II, and III sites, which include single family dwellings, granaries, kivas, towers, large villages, roads, and Moki steps.
- Sites attributed to the Fremont People, Numic and Athabaskan speaking groups, Utes, and Navajos.
- Petroglyph and pictograph sites, which span thousands of years of traditions and a range of styles.
- Native American Protohistoric and Historic sites that tell the story of the Native Americans who lived in the region over the last five centuries.

Historical sites listed in the Proclamation include:

- Euro American sites, including:
  - Evidence of the Mormon settlement of the region, including the smoothed sections of rock, constructed dugways and other features of the Hole in the Rock Trail.
  - Cabins, corrals, trails, and inscriptions in the rock that reveal the lives of ranchers, prospectors, and early archaeologists.
  - Hideout Canyon and the convoluted trail network known as the Outlaw Trail, said to be used by Butch Cassidy and the Sundance Kid.

Since the 1930s, archeologists have been studying the incredible resources of Cedar Mesa and Indian Creek areas. Only 9.2% (~136K acres) of Bears Ears NM has been inventoried for archeological resources. Within inventoried areas, there are several locations where archeological site density exceeds 37 sites per square kilometer.

The proclamation also lists a number of paleontological objects. Dozens of known paleontological sites exist within the BENM and additional surveys in areas with high potential fossil yield are expected to reveal new discoveries.

Vertebrate Fossil Resources include:
High potential fossil yield sites and sites of important discovery, such as Arch Canyon, Beef Basin, Black Mesa, Butler Wash, Comb Ridge, Indian Creek, Lavender Canyon, Lockhart Basin and Shay Canyon
Fossilized traces of marine and aquatic creatures
Fossilized trackways of early tetrapods and early dinosaurs
Exceptional examples of plant fossils, including fossilized ferns, horsetails, and cycads
Fossilized remains of reptiles, synapsids and dinosaurs not found elsewhere in the state.
Evidence (e.g., bones, dung, etc.) of Pleistocene Epoch species such as mammoths, short faced bears, ground sloths, camels and the extinct mountain goat

#### **Historic Looting of Archeological Sites in BENM**

Unfortunately, multiple sources have documented the removal of artifacts from the Cedar Mesa area over more than a century.

The most recent infamous example is the Cerberus operation. The Cerberus Collection, totaling approximately 46,000 objects primarily from the Four Corners region, is the U.S. government's largest single collection of museum property originating from the looting and black market sale of archaeological resources. The collections objects were recovered as part of the BLM and the Federal Bureau of Investigation's joint undercover investigation codenamed Operation: Cerberus Action that targeted suspected violations of the Archaeological Resources Protection Act, the Native American Graves Protection and Repatriation Act, and other federal property statutes.

#### **If Asked**

*The Bureau of Land Management (BLM) and the Federal Bureau of Investigation (FBI) conducted an undercover investigation that targeted violations of the Archaeological Resources Protection Act (ARPA), the Native American Graves Protection and Repatriation Act (NAGPRA), and other federal statutes. During the investigation, undercover agents and an informant purchased illegal artifacts from suspects in Arizona, Colorado, New Mexico, and Utah. The main objectives of the investigation were to discourage looting and sales of artifacts in the four corners region; and recover stolen property, remove it from the market, and return it to legal owners or maintain the property in perpetuity for public education. During the investigation, undercover agents and the informant bought nearly 500 objects. With the use of suspect's hand notated maps, Law Enforcement were able to determine the origins of the objects. Of the 500 objects purchased, 329 were illegally removed from BLM administered and National Forest System lands in San Juan County, Utah.*

*On June 10, 2009, the investigative team arrested 27 suspects. Since that time, 25 defendants have pled guilty to a variety of charges and entered plea agreements to forfeit collections of archaeological materials. To date, the BLM has taken possession of approximately 46,000 items from 10 individuals. The collections primarily includes prehistoric archaeological objects such as pottery, stone tools, ground stone, perishable items (e.g., sandals, cordage, baskets), and stone pendants, beads, and gaming pieces. All items packed and removed by the BLM are stored according to professional museum standards in Salt Lake City at temporary BLM repository or at the Natural History Museum of Utah.*

**What is BLM currently doing to protect cultural resources in the area?**

***Respect and Protect***

BLM and Tread Lightly! partnered to promote a public awareness campaign to eliminate the looting and vandalism of archaeological and paleontological resources in Utah.

The “Respect and Protect” campaign engages the public in the stewardship of our nation’s priceless cultural and natural heritage, in order educate the public about the consequences of these behaviors and promote more responsible outdoor ethics. The campaign also includes a phone hotline for people to anonymously report violations.

*To date, 2 Native American tribes, 7 federal agencies, 10 state government agencies, 2 county governments, 11 universities and colleges, 9 museums, 22 non profit organizations, 21 private sector businesses, and 38 individuals have participated in an online survey and/or regional stakeholder meetings to identify the key issues and messages the public awareness campaign should emphasize.*

***Curation and Repatriation of Artifacts***

The BLM is required to curate collections of objects classified as “Museum Property” in facilities that meet certain physical and staff requirements set forth in Department of Interior Departmental Manual 411 (DM 411) and the Code of Federal Regulations 36 CFR 79 (Curation of Federally Owned and Administered Archaeological Collections).

The BLM Utah is currently consulting with 31 tribes and have implemented a number of strategies to engage tribes in Cerberus repatriation efforts. These efforts include development of a secure collections consultation website, phone calls to tribal leaders, two large scale in person meetings with the tribes, 17 consultation letters, development of a draft NAGPRA collections summary, and presentations at other Utah, Arizona, and New Mexico tribal meetings. Responses to requests for NAGPRA claims have been limited. Consultation is ongoing and new strategies are being developed in an attempt to increase responses. New strategies include additional background research of collection records to narrow down the objects subject to NAGPRA. This will allow the BLM to consult with tribes on a limited number of objects in an attempt to have more focused discussions.

*One object, a Dilzini Gann headdress was repatriated to the White Mountain Apache Tribe of the Fort Apache Reservation, Arizona in 2013. Consultation is ongoing for the repatriation of three sets of human remains and 4,121 associated funerary objects to the Hopi Tribe of Arizona. A NAGPRA Plan of Action is in the final stages of development for the remains and objects. Once all procedures are completed, the human remains and associated funerary objects will be repatriated.*

*The BLM is currently working on an interpretive plan and exhibit that will utilize the Cerberus Collection to help educate the public about responsible public land use. The interpretive plan and exhibit will accompany any artifacts curated at non federal partner repositories. A number of BLM partners and BLM staff have helped develop the plan. The Edge of Cedars Museum, located in Blanding, Utah and The Natural History Museum of Utah, in Salt Lake City will be the first museums to test the new interpretive exhibit. A BLM team is currently determining the final disposition of the Cerberus Collection objects, which will be curated in non federal repositories throughout the Four Corners of the American Southwest. It is anticipated that a large number of collection objects will be curated at the Edge of Cedars State Park Museum, in Blanding, Utah.*

BLM Utah and Edge of Cedars (EOC) Museum maintain multiple long standing partnerships to enhance cultural resource management in San Juan County. The EOC is an Ancestral Puebloan archaeological site, museum, and repository run by the State of Utah in Blanding, Utah. The Museum opened in 1978 and the archaeological repository was completed in 1994. Today, the facility serves as a primary repository for archaeological materials excavated from public lands in southeast Utah and includes archives and a research library.

- Curation: The BLM has been curating archaeological objects at the EOC for over 20 years. In 2015, the BLM and the Utah Department of Natural Resources, Utah Division of Parks and Recreation, signed a Memorandum of Understanding defining the relationship and responsibilities for curation between State Parks museums, including the EOC, and the BLM. Recent curation efforts include:
- Site Stewardship: BLM Utah and EOC maintain a long standing partnership for a site stewardship program for San Juan County, Utah. BLM Utah and EOC have currently trained over 50 citizen steward volunteers who are regularly monitoring at risk archaeological sites across the county and report their findings on conditions and changes to the sites.
- Archaeological Research Projects: The EOC facilitates scientific research of BLM museum property by outside researchers.

#### **C. Visitor Information & Improvements**

BLM Utah has invested considerable effort in providing messaging to help visitors recreate responsibly within BENM.

1. Visitor Information Frequently Asked Questions
2. Cedar Mesa Grand Gulch Trip Planner

**Commented [GAL3]:** I'd love to hand out 12 copies of this, as well.

Since January, BLM Utah has obligated more than \$2 million dollars to improve cultural resource management and to promote safe recreation opportunities or enhanced visitor services within BENM. We expect to invest another \$1.5 million by the end of this fiscal year.

#### **D. Previous Management Under Monticello RMP versus National Monument**

Over 380,000 acres of the federal lands within the boundaries are currently managed by the BLM as 11 Wilderness Study Areas, natural lands without roads which provide outstanding opportunities for solitude or primitive recreation. Significant portions (totaling 29,000 acres) of the BLM managed part of the monument are also currently managed as Areas of Critical Environmental Concern, which are managed for the protection of their outstanding cultural, natural, and scenic values. The BLM managed part of the monument also contains nine Special Recreation Management Areas, which are managed for their recreation opportunities. The USFS administers the 46,000 acre Dark Canyon Wilderness just north of the Bears Ears formation, as well as the Cliff Dwellers Pasture Research Natural Area.

#### **Available Sources**

1. Draft Frequently Asked Questions Land Uses
2. Draft Frequently Asked Questions Monument Designation
3. Summary of acres with existing protections under the 2008 Monticello Resource Management Plan (BLM)
4. Map of Special Designations in the 2008 Monticello Resource Management Plan (BLM)

**Commented [GAL4]:** Tyler- is all of this information okay to share? I don't plan to provide copies, but want to make sure that everything in them is vetted and can be used to answer questions.

#### **E. Bears Ears Commission**

The Proclamation established the Bears Ears Commission, stating, "In recognition of the importance of tribal participation to the care and management of the objects identified above, and to ensure that management decisions affecting the monument reflect tribal expertise and traditional and historical knowledge, a Bears Ears Commission (Commission) is hereby established to provide guidance and recommendations on the development and implementation of management plans and on management of the monument. The Commission shall consist of one elected officer each from the Hopi Nation, Navajo Nation, Ute Mountain Ute Tribe, Ute Indian Tribe of the Uintah Ouray, and Zuni Tribe, designated by the officers' respective tribes. The Commission may adopt such procedures as it deems necessary to govern its activities, so that it may effectively partner with the Federal agencies by making continuing contributions to inform decisions regarding the management of the monument."

Honoring tribal expertise and traditional and historical knowledge, a Bears Ears Commission has been created that will enable tribes to share information and advice with federal land managers. While tribal input will be carefully and fully considered, the BLM and USFS retain decision making authority over the monument.

Each tribe listed in the Proclamation has appointed a member to the Bears Ears Commission. Several meetings have taken place between the BLM, Forest Service and the Bears Ears Commission, including a meeting with Secretary Zinke.

**If Asked**

*Prior to the Proclamation, in July of 2015, five American Indian Tribes with affiliation to the Bears Ears region formed the Bears Ears Inter Tribal Coalition (Coalition). The members of the Coalition include the Hopi Tribe, Navajo Nation, Ute Mountain Ute Tribe, Ute Indian Tribe of the Uintah Ouray, and the Zuni Tribe.*

*On October 15, 2015, the Coalition submitted a formal proposal to President Obama requesting designation of the 1.9 million acre Bears Ears National Monument (BENM). An important component of the proposal was collaborative management between the Tribes and the Federal government. The Coalition has stated that they will litigate any attempt to rescind the BENM.*

**F. Monument Advisory Committee**

The Proclamation calls for an advisory committee (separate from the Tribal Commission). Secretary Sally Jewell signed the Bears Ears National Monument Advisory Committee (Utah) Charter on January 18, 2017. The MAC will include 12 members appointed by the Secretary of the Interior and the Secretary of Agriculture and will include representation for a diverse range of perspectives including an elected official from San Juan County; a representative of State government; a representative with paleontological expertise; a representative with archaeological or historic expertise; a representative of the environmental community; a representative of livestock grazing permittees within the Monument; a representative of tribal interests; two representatives of developed outdoor recreation, off highway vehicle users, or commercial recreation activities; a representative of private landowners; a representative of local business owners; and a representative of the public at large.

A call for nominations to the Monument Advisory Committee will be announced through a Federal Register Notice with an accompanying press release.

Committee members will represent others within particular categories of interest and work collaboratively to advise on the development of the new Monument's management plan. Serving on the Committee gives members an opportunity to significantly contribute to the future of public lands in the Bears Ears National Monument.

**If Asked**

*The next step is for the Washington Office to release the Federal Register Notice. Highlights from our communication plan include:*

- *Members of the public are needed to fill terms in each of the Committee's representative group;*
- *Applicants must have knowledge or expertise in the fields they seek to represent and have knowledge of the geography, issues, and resources of the Bears Ears region;*
- *Applications are due 45 days from the date the vacancy announcement is published in the Federal Register;*

- *Applications are available by contacting the Canyon Country District Manager Lance Porter (435) 259 2100 or e mail l50porte@blm.gov;*
- *BLM managers listen closely to the recommendations and priorities presented by advisory committees; and*
- *The Committee represents a broad range of constituents who are interested in the management of the Bears Ears National Monument.*